

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION  
3:05-CR-00103-RJC-DCK

USA )  
 )  
v. ) ORDER  
 )  
JERMAL DANIELS )  
 )

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**THIS MATTER** is before the Court upon a motion by the defendant pro se to create a remedy pursuant to “2201 USC.” (Doc. No. 504).

The defendant complains that he was injured when the Court applied a sentencing enhancement based on a prior state conviction, allegedly in violation of 21 U.S.C. § 851, resulting in a case or controversy to be remedied. Declaratory relief is a power of federal courts pursuant to 28 U.S.C. § 2201; however, “it is well established that defendants convicted in federal court are obliged to seek habeas relief from their convictions and sentences through [28 U.S.C.] § 2255. Rice v. Rivera, 617 F.3d 802, 807 (4th Cir. 2010).

Here, the defendant previously filed a motion under § 2255, (Case No. 3:14-cv-63), which is pending on appeal. He has not shown that he has been granted permission to file a second or successive § 2255 motion. Therefore, the Court is without jurisdiction to consider the instant motion. United States v. Williams, 621 F. App’x 212 (4th Cir. 2015) (district court lacked jurisdiction to consider § 2201 motion that was in substance a successive § 2255 motion).

**IT IS, THEREFORE, ORDERED** that the defendant's motion, (Doc. No. 504), is **DISMISSED**.

Signed: August 29, 2018

  
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Robert J. Conrad, Jr.  
United States District Judge